

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES E. GREER,

Defendant.

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8:08CR132

ORDER

This matter is before the court on the defendant's motion to vacate under 28 U.S.C. § 2255. Filing No. 123. In a jury trial the defendant was found guilty of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). The defendant was sentenced to 188 months of imprisonment. His sentence was affirmed on appeal. The defendant filed a petition for certiorari in the United States Supreme Court, which was denied. In this § 2255 motion, the defendant alleges that he received ineffective assistance of counsel for failing to notice and obtain impeachment evidence, call witnesses, and argue that the search exceeded defendant's consent.

The court ordered the government to file an answer, Filing No. 128. The government has answered, Filing Nos. 131 and 132. The defendant replied, Filing Nos. 133 and 134. In its answer, the government requested that this court allow defense counsel to provide an affidavit addressing defendant's allegations. *See United States v. Cook*, 8:07CR339, Filing No. 134 (D. Neb. July 15, 2011). The court is of the opinion that an affidavit would be appropriate in this case. Accordingly, the court will allow defense counsel to file an affidavit responding to the allegations of the defendant.

THEREFORE, IT IS ORDERED:

1. Former defense counsel, Shannon P. O'Connor, is hereby requested to file an affidavit in this case, addressing all pertinent information that he believes is reasonably necessary to respond to the defendant's ineffective-assistance-of-counsel claims against him, if he so chooses, and shall do so within 30 days from the date of this order.

2. The defendant has waived the attorney-client privilege with respect to the matters raised in his ineffective-assistance-of-counsel claims in his motion filed under 28 U.S.C. § 2255.

3. The Clerk of Court is ordered to serve a copy of this order on previous defense counsel, Shannon P. O'Connor.

DATED this 3rd day of February, 2012.

BY THE COURT:

s/Joseph F. Bataillon
United States District Judge